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CONCORD, N.H.

Mr. Harold Cheney, Director
Division of Purchase and Property
State House
Concord, New Hampshire

Dear Sir:

Under date of February 18, 1955 you have inquired whether the making of agreements for the rental of buildings -- including the rental of space within a building -- is a function of the Division of Purchase and Property. We reply in the negative.

An examination of Laws 1949, c. 227 and of Laws 1950, c. 5, Part 6, ss. 13-17 inclusive, reveals clearly that except with respect to certain custodial duties connected with specified state-owned realty, the Division is concerned only with personal property. With regard to purchase, the Director shall purchase "supplies", R.L. c. 14-A, s. 4, subsec. I, as amended by Laws 1949, c. 22 of s. 1. It is his duty, again, to purchase "all material, equipment and supplies" for all departments of the state Laws 1950, c. 5, Part 6, s. 17, subsec. II. Nowhere is reference made to his acquiring real estate.

Rather, with few exceptions, the acquisition of real estate is a function of the Governor and Council -- either on their own behalf, or as an approving authority. Thus they may acquire it by purchase or otherwise, R.L. c. 27, s. 23, or they may take it for public purposes through the process of eminent domain. R.L. c. 27, s. 24. Purchases of land for the purposes of forestry and recreation are made by the Forestry and Recreation Commission, the approval only of the Governor and Council being required, while it appears that the Trustees of the Industrial School may acquire real estate without any authority than that already existing. R.L. c. 463, s. 1.

C O P Y

Mr. Harold Cheney, Director

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The entire absence of any reference to the Division of Purchase and Property, or to its predecessor, the Purchasing Agent, in connection with the acquisition of realty must be taken to mean that such acquisition is not a part of your Division.

The foregoing is written in the understanding that the duty of acquiring realty has not been assigned to the Division under the provisions of Laws 1950, c. 5, s. 3.

Very truly yours,

Warren E. Waters
Deputy Attorney General

WEN/T